

OGC Has Reviewed

**TAB**

Sec. 234(c), Page 18, Line 10

**SUBJECT: Discontinued Service--Involuntary Retirement with Immediate Annuity.**

**ISSUE:** This section originally authorized the Director to retire, in his discretion, participants in grade GS-14 and above with an annuity as earned provided they had not less than five years of qualifying and 10 years of Agency service. The earned annuity was not to be reduced for years the individual might be below normal voluntary retirement age.

This entire section was stricken in Mr. Braswell's revision of our bill. He gives several reasons for this. First the use of a grade level (GS-14) as the cut-off for the granting or not granting of discontinued service retirement benefits appears to be inequitable and illogical. In addition he states that the Committee is strongly opposed to anyone receiving a retirement annuity under age 50.

**DISCUSSION:** We contend that the CIA retirement system should not and must not be devoid of discontinued service retirement benefits. Not only would the CIA retirement system be inferior to the Civil Service Retirement system but the impact on employee morale would be most serious. There is no more sensitive area of employee concern in any organization than protections against capricious firing and the absence of a program of reasonable financial benefits if the employee must be let go for good and sufficient reasons.

In the Civil Service Retirement system the basic principle of Federal employment has been established that the employee with 25 years of service regardless of age and the 50-year-old employee with 20 years of service has a right to an immediate annuity. The annuity is reduced by formula, however, for the years of age the employee is below 60.

We believe that the very special manpower management problems of CIA will make it necessary from time to time to separate small numbers of employees who for a variety of reasons no longer can effectively meet our staffing needs in the area of foreign intelligence operations. We therefore desire to have a program of discontinued service benefits which will reasonably indemnify those whose careers are prematurely shortened and which will afford them proper financial assistance during a prolonged if not permanent period of vocational disruption.

With respect to the granting of an immediate annuity upon discontinuance of service, we propose the following:

The Director may, in his discretion, place in a retired status any participant who is at least 50 years of age or who has completed at least twenty-five years of service provided such participant has not less than five years of qualifying and a total of 10 years service with the Agency. If so retired such participant shall receive retirement benefits in accordance with the provisions of section 221.

The elimination of the normal penalty for each year of age the individual may be below age 60 is believed warranted by the multiplicity of reasons which may lead to a decision that an individual is surplus to CIA and the more serious damage caused by such a decision. CIA skills and experience are not readily converted to normal civilian vocations and security considerations make it difficult to explain or verify one's qualifications.

In addition, the existence of the expressed right of the Director to place any participant over age 50 in a retired status will make it possible to ensure that the "voluntary" retirement provision is utilized by a reasonable number of persons. It will facilitate manpower management without the rancor and personal embarrassment inherent in involuntary separation.

POSITION: We believe that the minimum discontinued service benefits of Civil Service are absolutely essential. We believe the more favorable "no penalty" feature is justified for the same reasons given for voluntary retirement at age 50 with 20 years of service. If necessary to make concessions, we believe we could raise the subsidiary qualifying service requirements up to 10 years of qualifying service and 15 years of Agency service or to something in between--perhaps 7 years qualifying and 12 years total.

Sec. 273, Page 31, Line 17

SUBJECT: Reemployment Compensation

ISSUE: This section, as contained in the House-enacted bill, permits an annuitant under the CIA Retirement System to be reemployed in the Federal Government service in an appointive position and receive the salary of the position plus so much of his annuity that the two combined will not exceed his CIA salary at time of retirement.

Mr. Braswell's proposal changes this provision to conform to that governing a Civil Service annuitant reemployed in a Civil Service-covered position. In such circumstance the annuity is deducted from the salary of the reemployed annuitant.

(2) DISCUSSION: We believe we should strongly argue for restoration of the original provisions. Our position is based on two factors: First, the condition of service and discipline imposed upon CIA employees participating in this retirement system are more analogous by far to those of the commissioned military services and the Foreign Service than are to the Civil Service. We hold that our participating employees have earned their annuities at the time they apply for and are approved for early retirement. This principle appears to have been established for the Foreign Service Officer, the Reserve military officer and more recently the retired regular military officer. With respect to retired military officers, a reservist can retain both his civilian salary and his entire annuity and a regular officer his salary plus the first \$2,000 of his annuity and 50% of the balance thereof.

(1) A second and equally important argument for the retention of the original provisions of the CIA Act relates to one of the basic problems of CIA for which it is seeking relief. It is imperative that CIA hold down the average age of this group of employees and our retirement plan permits voluntary retirement at a relatively early age. These retirees, however, with few exceptions will need to seek a second career and toward this end we should not add to the impediments to such a career elsewhere in government. We point out the CIA employees do not acquire status in the competitive service and further that much of their experience and competence cannot readily be related to normal government positions. It is more probable, therefore, that the retired CIA employee will only be able to qualify initially for employment in the competitive service several grades below his terminal CIA position. Only if he can retain at least a portion of his annuity will he be able to remain in government service without a drastic lowering of

his standard of living. The total offset of annuity upon reemployment in government service will tend to limit second career employment opportunities to the private sector and be a disservice to CIA. It will also tend to deny to the Government the services of some highly competent people even though they have completed their CIA careers. It is interesting to note that the more successful a reemployed annuitant is in a second government career the less, if anything, he will draw from the CIA retirement fund.

Mr. Braswell persists in misinterpreting this provision each time we explain it. Moreover, when we point out the more favorable provisions afforded military personnel, he expresses the view that they are equally wrong in his opinion.

**POSITION:** We feel very strongly that this is a necessary provision. Without it many people we would like to have seek early retirement and employment elsewhere in government will decline unless they can be assured in advance of a comparable job.

Sec. 201(a), Page 2, Line 16

**SUBJECT: Rules and Regulations**

**ISSUE:** This section authorizes the DCI to prescribe rules and regulations for administration of the retirement system. During House debate, a requirement was added that our regulations would be effective only "after approval by the chairmen and ranking minority members of the House and Senate Armed Services Committees." We have asked that this be changed to "consultation with."

**DISCUSSION:** In terms of clearing our regulations, the practical effect of "approval" or "consultation" is about the same--in either case we would have to have both Committees agree to our regulations. However, there are Constitutional questions involved as to whether the approval requirement represents Legislative invasion of Executive prerogatives. Budget Bureau has indicated very strong opposition to the language "approved by" and has threatened to advise the President to veto the bill if it contains this language.

Mr. Braswell dismissed the constitutionality question as being of no concern to him and indicated complete indifference regarding BOB's position. However, we feel that he was ready to agree to the change when we discussed it with him last.

**POSITION:** We feel very strongly that this change should be made because of BOB's position on it. If it is not made, we'll have to get busy with BOB so that they won't fight the issue out in this instance.

Sec. 231(a), Page 11, Line 10

**SUBJECT: Survivor Annuity to Widow of Disability Annuitant**

**ISSUE:** If the earned annuity of a disability retiree is less than 40% of his high-5 salary, he is guaranteed a minimum annuity under both our proposed CIA bill and Civil Service. Although the wording is different, both provide the same minimum: the lesser of (1) 40% of high-5, or (2) an annuity based on service to age 60. (Our bill in its original version would have made this age 65 for GS-18 and over but we are recommending agreement to a change which would make it age 60 in all cases.) However, under Civil Service and as Mr. Braswell has changed our bill, the survivor annuity to the widow of a disability annuitant is based on his earned annuity not on his actual annuity. Under our original version, the widow's annuity is based on the actual annuity whether it be the earned annuity or the guaranteed minimum.

**DISCUSSION: Debilitating effects of our service increase health hazards and susceptibility to disabling diseases:**

The career employee in the group to be covered under our proposed retirement system will be exposed during his career to strenuous conditions of service not only by virtue of the stresses and strains inherent in his work but by repeated exposure to hardship posts where health hazards are greater than in this country. He runs a greater risk of incurring physical impediments which will disqualify him for continued employment than the civil service employee whose entire career is served in the favorable health environment of this country. We are not concerned here with the employee who incurs a disabling disease or injury in the performance of duty; he would be covered by the Federal Employees Compensation Act which provides benefits for death, injury, or illness in the performance of duty. Rather, we are concerned with the employee whose susceptibility to disease or physical disability is heightened by the accumulative effect of the stresses and strains of his work and the physical environments to which he is exposed. The number of such employees who become completely disabled for further duty is small--we have no actual statistics but our experience recalls no more than a handful of cases. If such an employee is retired for disability short of 20 years of service, he is guaranteed under both Civil Service and our proposed system an annuity based on 20 years of service--40% of his high-5 salary. His widow, however, receives only 55% of his earned annuity which may be based on as little as five years of service. The widow who is left with a family of small children to raise, even if provided with the insurance benefits of Federal employment, faces a difficult future indeed.

Employee should have assurance of minimum protection for his widow:

Without raising the question of whether the Civil Service system should be changed to make more adequate provision for the widow of a disabled employee, we believe that special consideration is warranted in our case. An employee will be more willing to remain in a career field involving the additional health hazards of our service if he believes that his widow will receive fair consideration and that her annuity should be based at least on the annuity established as appropriate for her disabled husband.

Low cost for important morale asset:

The additional pay out from the fund would be small but the morale factor would be great, not only for the widow but for all employees who foresee that their wives might also at some time be faced with the support of a family on what is at best a small annuity.

To illustrate the difference in the widow's annuity under the two systems:

An employee with a high-5 of \$7,000, 10 years of service, and retiring for disability at age 40 would have earned an annuity of:

\$1,138	under Civil Service
\$1,400	under our proposed bill

His guaranteed minimum annuity would be \$2,800 under either system (40% of his high-5 which in this example is less than an annuity based on service to age 60). However, the widow of this disability annuitant would receive only \$626 under Civil Service (55% of the earned annuity of \$1,138), while under our proposed system she would receive \$1,540 (55% of the \$2,800 guaranteed minimum of 40% of high-5).

Another example: an employee with a high-5 of \$12,000 retires at age 48 with 15 years of service. His earned annuity would be \$3,150 under Civil Service and \$3,600 under our proposed bill. His guaranteed minimum under either system would be \$4,800. His widow would receive only \$1,733 under Civil Service but \$2,640 under our proposed bill.

This point has not been covered in our discussions with Mr. Braswell. However, he appeared to be receptive to these same arguments in support of a more liberal death-in-service benefit.

**POSITION:** We regard this as a justified benefit but not of the same significance as the discontinued service reemployment compensations and approval-of-regulations issues.

Sec. 232(e), Page 16, Line 14

**SUBJECT: Death in Service Benefits**

**ISSUE:** The annuity to the widow of an employee who dies is 55% of the annuity which he has earned. Under our proposed bill, the annuity to the widow of an employee who dies with less than 20 years of service is computed as if the employee had 20 years of service. However, if such additional service credit would extend the employee's projected service beyond age 60, the additional service credit is limited to the number of years between the employee's age at death and age 60. Since an annuity based on 2% of the high-5 salary for 20 years of service is 40%, the effect of this provision is to put the widow's annuity on the same basis as her annuity under the guaranteed minimum provision for disability retirement as we have proposed it. There is no comparable death benefits under Civil Service; the widow receives 55% of her husband's earned annuity computed as of the date of his death.

**DISCUSSION:** Our arguments for retaining this provision are the same as for retaining the special provision to give the widow of a disability annuitant an annuity based on his actual annuity. We believe we should do no less for the widow of an employee who dies in service than for the widow of an employee who becomes disabled and is forced to retire.

As noted in our comments on Sec. 231(a) regarding the annuity of the widow of a disability annuitant, the line of argumentation used there seemed to be persuasive to Mr. Braswell. However, he has given as yet no clear indication of a readiness to restore this provision.

**POSITION:** This is an important provision which we believe desirable but it is not of the significance of the discontinued-service, reemployment compensation, and approval-of-regulations issues.

Sec. 234, Page 18, Line 19

**SUBJECT: Separation Pay**

**ISSUE:** This section provides a separation benefit for any participant in the system who is involuntarily separated after not less than five years of Agency service and who is not otherwise eligible for an annuity. The benefit is set at the rate of one month's salary per year of service but not exceeding one year's salary.

**DISCUSSION:** We believe this is warranted as a special form of compensation to assure financial support during the difficult period of vocational readjustment, possible retraining, and relocation. It is particularly important for persons who have been serving overseas and accordingly have neither the contacts nor opportunity to search out new employment opportunities.

In addition the fact that CIA employees do not acquire Civil Service status renders them ineligible for most other positions in government until they have spent many months establishing their eligibility and seeking openings.

The formula of compensation payments is identical to that of the Foreign Service and is only one half the formula for comparable payments upon discontinuancy of service of military officers. As a matter of comparison even the military officer who fails to meet standards of performance and is terminated receives compensation at the rate of one month's pay per year of service up to one year's salary.

**POSITION:** CIA already has legal authority to pay separation compensation. However, CIA had a great deal of difficulty in getting approval of the Bureau of the Budget and from the Appropriation Committees. Having the authority in this statute in conjunction with other discontinued service benefits will minimize the problem of getting funds for this purpose. In addition, this provision as drafted permits the individual to assign this benefit; this is a right which we cannot establish administratively under existing authorities.